



Public Notice

U.S. Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Number: 200050047

Date: June 30, 2005

Comments Due: August 1, 2005

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, is evaluating a proposal to establish the Utah Department of Transportation (UDOT) Wetland Mitigation Bank. This notice is to inform interested parties of the proposed activity and to solicit comments about UDOT's proposed Banking Instrument. This public notice also may be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

The Banking Instrument for the UDOT Mitigation Bank is available for public review at the UDOT Region 2 Office, 2010 South 2760 West, Salt Lake City, Utah 84104; the Corps' Utah Regulatory Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010; or online at <http://www.udot.utah.gov/download.php/tid=60/Banking%20Instrument.pdf>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

**APPLICANT/
BANK SPONSOR:** Utah Department of Transportation, Region 2
Attn: Lars Anderson, Environmental Manager
2010 South 2760 West
Salt Lake City, Utah 84104
Telephone: (801) 887-3470

LOCATION: The proposed UDOT wetland mitigation bank site is located on the eastern banks of the Jordan River in Draper, Utah, north of the Bangerter Highway and south of 12300 South. More specifically, the bank would be located between the Jordan River and the abandoned Galena Canal in the vicinity of Corner Canyon Creek (southwest quarter of Section 35, Township 3 South, Range 1 West, UTM (NAD27)= zone 12, 422670 m E, 4484460 m N).

PURPOSE: The purpose of the UDOT Mitigation Bank is to provide off-site replacement of the chemical, physical and biological functions of wetlands or other aquatic resources that will be lost as a result of authorized impacts. The UDOT Mitigation Bank would not be a commercial endeavor. Rather, the bank would provide compensation for unavoidable losses for UDOT-sponsored projects. These would include federally and state-funded roadway improvement projects as well as local government projects that are managed by UDOT. No mitigation credits would be sold.

Using appropriate methods, the bank's newly established functions would be quantified as mitigation "credits" which would be available for use by UDOT to compensate for adverse impacts or "debits." As a permit applicant, UDOT would still be required to comply with the Clean Water Act Section 404(b)(1) Guidelines and the Memorandum of Agreement between the

Environmental Protection Agency and the Department of the Army regarding the determination of mitigation. Therefore, UDOT would have to take normal steps to avoid and minimize impacts before using the mitigation bank to compensate for authorized impacts.

PROJECT DESCRIPTION: In 1988, a 252-acre parcel owned by the Utah Department of Corrections was designated as open space. In 2000, the Utah State Legislature designated the parcel as critical lands and turned ownership and management responsibilities to the Division of Forestry, Fire, and State Lands. The Utah Department of Transportation has identified an opportunity to use excess water on the site to develop wetlands and create a Mitigation Bank.

The Department of Corrections utilizes a storm drain into the property that delivers excess water from the Utah State Prison located to the south. The excess water (2-3 cubic feet/ second) comes from a geothermal well and is used for heating purposes at the prison. The Department of Corrections holds a discharge permit, which allows the excess water to enter the Jordan River without cooling. In November 2005, the permit expires and the Department of Corrections will need to cool the water from approximately 106 degrees to 68 degrees before discharging into the Jordan River. This water, along with other sources, will be used in the preparation of a water budget for the mitigation site. By creating wetlands in upland areas on the state-owned property managed by the Division of Forestry, Fire and State Lands, and by restoring hydrological function to degraded wetlands, UDOT would receive wetland mitigation credits from the Corps to offset future, unavoidable impacts to wetlands. The Mitigation Banking Instrument outlines the specific natural resource needs filled by the Mitigation Bank and provides the necessary information to approve the Final Mitigation Banking Instrument.

The anticipated mitigation need is to develop habitat community types similar to typical impacts that result from UDOT projects. These have been identified as scrub-shrub, emergent marsh, wet meadow, and riparian habitats. In addition to creating habitat types for aquatic and terrestrial wildlife, the created wetlands would improve water quality. The wetlands would accept the excess water from the Prison at 106 degrees and cool it down below 68 degrees before discharge. This would be done by holding the water in place, mixing it with other surface water runoff, and allowing infiltration into the aquifer. Additionally, sedimentation into the Jordan River would be reduced by restoring Corner Canyon Creek to a more stable gradient. The most significant benefits from the Mitigation Bank will be the improved water quality of the Jordan River, followed by improved habitat structure for both migratory and non-migratory species, primarily waterfowl, upland game birds and neo-tropical migratory birds.

The overall goal of the proposed UDOT Mitigation Bank is to provide economically efficient and flexible mitigation opportunities, while fully compensating for wetland and other aquatic resource losses in a manner that contributes to the long-term ecological functioning of the watershed. The goal includes the need to replace the essential aquatic functions which are anticipated to be lost through authorized activities within the bank's service area.

ADDITIONAL INFORMATION:

Environmental Setting. The applicant has stated that the land is owned by the State of Utah and managed by the Division of Forestry, Fire, and State Lands. Specifically, Barry Tripp is the land manager assigned to this parcel. Article 63A-5-222 (Critical land near state prison--Definitions Preservation as open land Management and use of land Restrictions on transfer Wetlands Development Conservation easement) specifically outlines the approved uses of the land. Section 5(a) states "Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the critical land may develop or allow a public agency or private entity to

develop more wetlands on the critical land than exist naturally or existed previously". Finally, Section 8 requires that the land be placed under a perpetual conservation easement managed by the State or a reputable land conservation organization.

The overall acreage of the parcel is 252 acres. Only 25.35 acres will be used as a wetland bank for the foreseeable future. The remaining acreage will be held in a conservation easement and will continue to be managed by the Division of Forestry, Fire and State Lands. Within the 25.35 acres, the following wetland classes will be constructed: Wet Meadow (14.3 acres), Emergent Marsh (6 acres), Open Water/Stream Channel (1.3 acres), and Riparian (3.75 acres).

Hydrology at the proposed mitigation bank site is influenced mainly by the Jordan River, Corner Canyon Creek and a high water table. The Jordan River has created a half-mile wide flood plain that is roughly 50 feet below the surrounding bluffs. Over the years, the river has created flood plain terraces, oxbows and gravel/sand bars.

Corner Canyon Creek flows from the east, dissecting the proposed mitigation site before it enters the Jordan River. The creek previously flowed over the Galena Canal as part of a milling operation, but the structure has been in ruins for many years. The creek is in fair condition east of the bike path; however, the creek is highly incised west of the bike path.

The site also has remnants of the Galena Canal. The canal used to be diverted from the Jordan River near the south end of the mitigation site. The diversion structure was destroyed when the Jordan River flooded in 1983. Since that time the canal has not carried water from the Jordan River. The Galena Canal has received some water from Corner Canyon Creek by means of a diversion pipe, but recently the pipe outlet has been clogged with sediment and reed canary grass.

Aside from the surface hydrology, the site is also influenced by a high water table. The water table is much deeper south of Corner Canyon Creek. The water table draws closer to the surface on the north side of the creek and continues to become shallower toward the north end of the delineated area. Five years of drought have influenced the hydrology at the mitigation site. Several of the test holes did not have saturated soils within 18 inches of the surface even though the test holes were dug in areas supporting obligate wetland vegetation.

The Department of Corrections is transferring the use of 2 cfs from the East Jordan Canal to be used as a guaranteed water source for the mitigation bank. The water will be diverted out of the canal on the prison property and added into the 8-inch pipe that carries the geothermal water from the prison to the cooling pond. This water will help cool the geothermal water and supply a greater quantity of water to the wetland bank. The canal water is available from April to September. The agreement between UDOT and the Department of Corrections states that, in the event the prison moves, UDOT would become the owner of the 2 cfs water right, thus allowing the continued use of the irrigation water in perpetuity.

Alternatives. The alternatives to developing a wetland mitigation bank include developing mitigation for unavoidable impacts on a project-by-project basis (the current practice for UDOT). These alternatives are: on-site, in-kind mitigation; on-site, out-of-kind mitigation; off-site, in-kind mitigation; off-site, out-of-kind mitigation; preservation of wetland resources; enhancement of existing wetland resources, or in-lieu-fee paid for future restoration or enhancement projects.

OTHER GOVERNMENTAL AUTHORIZATIONS:

WATER QUALITY CERTIFICATE: The applicant has indicated a UPDES permit will be obtained from the Department of Environmental Quality prior to construction. This will satisfy the conditions stated under Section 401 of the Clean Water Act.

TRIBAL RIGHTS: No reserved tribal rights, including water rights, hunting or fishing rights, will be affected or impaired by the proposed activity. This condition is not applicable.

HISTORIC PROPERTIES: The applicant initiated cultural resource surveys for the proposed bank property. All required clearances from the Federal Highway Administration, the State Historical Preservation Office (SHPO) and consultation with Native American representatives have been obtained.

ENDANGERED SPECIES: Surveys for special-status species were conducted by the applicant. No federally listed species have been documented or are expected to occur on the proposed bank lands. A concurrence letter has been issued by the U.S. Fish and Wildlife Service.

ESSENTIAL FISH HABITAT: Essential fish habitat does not occur within the project area. This section is not applicable.

EVALUATION FACTORS: Copies of all comments received about the Mitigation Banking Instrument will be distributed to all members of the Mitigation Bank Review Team and the bank sponsor for full consideration in the development of the final plan.

The Corps is soliciting comments from public, Federal, State, and local agencies and officials, Indian Tribes, and other interested parties about the Mitigation Banking Instrument. Any comments received about the instrument will be distributed to all members of the Mitigation Bank Review Team and the bank sponsor, UDOT, for full consideration in the preparation of the Final Banking Instrument. Following development of the Final Banking Instrument, the Corps anticipates authorization of the UDOT Mitigation Bank under Nationwide Permit 27, Stream and Wetland Restoration Activities.

SUBMITTING COMMENTS: Written comments regarding the UDOT Mitigation Banking Instrument should reference Public Notice 200050047 and must be submitted to the office listed below on or before **August 1, 2005**:

Jason Gipson, Project Manager
US Army Corps of Engineers, Sacramento District
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010-7744
Email: jason.a.gipson@usace.army.mil

Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Jason Gipson, 801-295-8380, ext. 22.

Attachments: 6 drawings